

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL C. FINTON,

Defendant.

No. 10-30215-DRH

ORDER

HERNDON, Chief Judge:

Before the Court is Defendant Finton's Stipulation of Competency (Doc. 55). Specifically, Defendant stipulates that he is competent to stand trial in this matter. The Court had previously Ordered that Defendant undergo a psychiatric exam to determine his competency to stand trial (Doc. 13). On November 29, 2010, pursuant to **18 U.S.C. § 4241**, the Court committed Defendant to the custody of the Attorney General for placement in a suitable facility to conduct a psychiatric and psychological examination (Doc. 13). After a report was submitted with the results of the examination, Defendant filed this Stipulation of Competency, stipulating that he was competent to stand trial (Doc. 55).

No criminal defendant may be tried unless he is incompetent. **Godinez v. Moran, 113 S.Ct. 2680, 2685 (1993)**. In order to find a defendant incompetent, the evidence must show that the defendant "did not understand the nature and the consequences of the proceedings against him and that he was unable to assist in his

own defense.” *United States v. Moore*, 425 F.3d 1061, 1074 (7th Cir. 2005); *see also United States v. Garrett*, 903 F.2d 1105, 1116 (7th Cir. 1990), *cert. denied*, 498 U.S. 905 (1990)(test is whether defendant “has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding” and “whether he has rational as well as factual understanding of the proceedings against him.”). Here, Defendant has stipulated that he is currently competent to stand trial. Further, based on a review of the examination reports, the Court agrees that Defendant is presently competent to stand trial. Thus the Court **ACKNOWLEDGES** the Stipulation of Competency and finds that Defendant Finton is competent to stand trial; he is able to understand the nature and consequences of the proceedings against him; and he is able to assist properly in his defense.

IT IS SO ORDERED.

Signed this 21st day of December, 2010.

  David R. Herndon
2010.12.21
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**Chief Judge
United States District Court**